

# **CITY COUNCIL AGENDA**

**OCTOBER 28, 2008**

**AMENDED AGENDA**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
DAVID D CORTESE, VICE MAYOR  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:00 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 9)**  
Pastor Bradley J. Smith, San José Christian Reformed Church
- **Pledge of Allegiance**
- **Orders of the Day**

\* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/  
REDEVELOPMENT AGENCY BOARD SESSION.**

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

\* **ITEM 2.6 RENUMBERED TO ITEM 7.3**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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1.1 Presentation of a commendation to Raley's Nob Hill Store #635 for rebuilding their store to a LEED Silver Standard. (Mayor/Williams/Economic Development)

1.2 [Swearing in ceremony for District 2 Youth Commissioner James Hill, III, District 3 Youth Commissioner Aaron Carrera, District 4 Youth Commissioner Kimberly Loo, District 6 Youth Commissioner Nicholas Scott Taxera, District 8 Youth Commissioner Nwakaego Uzoh, and Citywide Youth Commissioner Darlene Tu.](#) (City Clerk)

## TO BE HEARD IN THE EVENING

\* (Rules Committee referral 10/22/08)

1.3 Presentation of a commendation to Anitha and Adam Beberg for their heroic efforts to save the lives of their neighbors from a fire burning in their neighbor's home. (Constant)

\* (Rules Committee referral 10/22/08)

# 2. CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

**Recommendation:** Approval of Minutes.

(a) Regular Minutes dated August 5, 2008

(b) Regular Minutes dated August 12, 2008

\* **RECOMMEND DEFERRAL TO 11/4/08 PER CITY CLERK**

## 2.2 Final adoption of ordinances.

## 2.3 [Amend the agreement for services at the Airport's Compressed Natural Gas Station.](#)

**Recommendation:** Approve a first amendment to the agreement with Pinnacle CNG Company to extend the term of the agreement for operation and maintenance services at the Airport's Compressed Natural Gas Fueling Station from December 1, 2008 to June 30, 2010 and increase the total compensation by \$528,694, from \$939,118 to a not-to-exceed amount of \$1,467,812. CEQA: Resolution Nos. 67380 and 71451, PP 08-212. (Airport)

## 2. CONSENT CALENDAR

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### 2.4 [Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC.](#)

**Recommendation:** Adopt a resolution authorizing the City Attorney to execute the Settlement Agreement and Release that provides for the payment to the City of \$958,834.07 of Franchise fees and AB939 fees, and \$27,928.46 of AB939 fees to San José Unified School District, by Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) arising out of solid waste collection services to public school districts in San José in exchange for the City's release of all obligations for Franchise fees due on BFI's service to these school districts prior to December 31, 2007, as authorized by the City Council in Closed Session on September 30, 2008. (City Attorney's Office)

### 2.5 [Identity Theft Prevention Program.](#)

**Recommendation:** Adopt a resolution approving the Identity Theft Prevention Program and Procedures Related to Notices of Address Discrepancies to comply with regulations issued by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act of 2003 and designation of the City Manager's Office to provide oversight of the Identity Theft Prevention Program. CEQA: Not a Project. (City Manager's Office)

### 2.6 [Approve actions related to Commercial Solid Waste Franchise Fees.](#)

#### [Supplemental – Memo from the Director of Environmental Services](#)

#### \* **Recommendation:**

- (a) Adopt a resolution amending Resolution No. 73256 to amend Commercial Solid Waste Collection Franchise Fees to set the commercial solid waste franchise fee for solid waste collected from public school districts and San José State University at zero if the school has a Waste Reduction and Recycling Cooperation Agreement with the City, to be effective November 1, 2008.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute new and amended Waste Reduction and Recycling Cooperation Agreements with public school districts and San José State University to address fees for solid waste collection services to the schools and to supersede Resolution Nos. 73878 and 73969.
- (c) Provide direction to Staff regarding the disposition of fees that may be remitted to the City pursuant to a proposed settlement with Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) which were collected before July 1, 2007 by BFI from public school districts.

CEQA: Not a Project. (Environmental Services)

#### \* **RENUMBER TO ITEM 7.3**

## 2. CONSENT CALENDAR

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### 2.7 [Report on Open Purchase Orders for FY 2008-2009 #4.](#)

**Recommendation:** Approve an award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #4 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

### 2.8 [Award of contract for the Willows Senior Center Fire Damage Repair Project.](#)

**Recommendation:**

- (a) Report on bids and award of contract for the construction of Willows Senior Center Fire Damage Repair Project to the low bidder, Quality Plus Construction, Inc., for the base bid and adds Alternate No. 1 in the amount of \$352,460 and approval of contingency in the amount of \$52,869.
- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund:
  - (1) Increase the other revenue estimate in the General Fund by \$730,449.
  - (2) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services for the Willows Senior Center Fire Damage project in the amount of \$618,380.
  - (3) Increase the contingency reserve by \$112,069.

Council District 6. CEQA: Exempt, PP08-138. (Parks, Recreation and Neighborhood Services/Public Works/City Manager's Office)

### 2.9 [Amend Agreement for the Police Department Records Management System.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Agreement with URL Integration, Inc., extending the term through February 28, 2009 including in the Scope of Services a Return on Investment study for the Records Management System; and increasing compensation in an amount not to exceed \$60,232, with the total amount of compensation not to exceed \$292,586. CEQA: Not a Project. (Police)

### 2.10 [Approve the FY 2008 Internet Crimes Against Children Continuation Grant.](#)

**Recommendation:**

- (a) Adopt a resolution accepting the FY 2008 Internet Crimes Against Children Continuation Grant in the amount of \$550,141 and authorize the City Manager to execute the Grant Agreement and all related documents.
- (b) Adopt amendments to the annual Appropriation Ordinance and the Funding Sources Resolution in the General Fund as follows:
  - (1) Establish a City-wide appropriation to the Police Department for the FY 2008 Internet Crimes Against Children Continuation Grant in the amount of \$550,141;
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$550,141.

CEQA: Not a Project. (Police/City Manager's Office)

## 2. CONSENT CALENDAR

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### 2.11 Approve a Willow Glen Community Benefit and Improvement District.

**Recommendation:** Adopt a resolution by the City Council:

- (a) Stating its intention to form a Community Benefit and Improvement District in Willow Glen;
- (b) Preliminarily approving the Willow Glen Management Plan and Engineer's Report;
- (c) Setting a public hearing on December 16, 2008 at 7:00 p.m.; and
- (d) Calling an election for tabulation of the ballots for December 16, 2008 at 7:00 p.m.

CEQA: Exempt, File PP08-097. Council District 6. (Public Works)

\* (Deferred from 10/21/08 – Item 4.2)

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

### 3.2 Report of the Rules and Open Government Committee – October 8, 2008 Mayor Reed, Chair

- (a) City Council
  - (1) Review October 14, 2008 Final Agenda  
None-Regular Meeting canceled
  - (2) Review October 21, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update - verbal report by City's State Lobbyist (Manager)
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules committee Reviews, Recommendations and Approvals
  - (1) Workload Assessment related to suspension of certain provisions of the sign ordinance. (Cortese)
  - (2) Approve amending bylaws of the Caltrain Centralized Equipment Maintenance Operations Facility. (Williams)
  - (3) Approve a Monthly Report of Activities for September 2008. (City Auditor)
  - (4) Conceptually approve a Framework for Structural Improvements to the City's Boards and Commissions Programs. (City Clerk)
- (h) Review of Significant Public Records Act Requests
  - (1) Community and Economic Development (CED) Committee
    - (a) Approve report to the October 27, 2008 Agenda, "Convention Center Facilities District: Review of Preliminary Plan of Finance.
  - (2) Neighborhood Services and Education

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules and Open Government Committee – October 8, 2008 (Cont'd.)

##### Mayor Reed, Chair

- (h) Review of Significant Public Records Act Requests (Cont'd.)
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Review of Council Policy Updates per Sunshine Reforms
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

\* **RECOMMEND DEFERRAL TO 11/4/08 PER CITY CLERK**

#### 3.3 Report of the Public Safety, Finance and Strategic Support Committee

October 16, 2008

##### Councilmember Nguyen, Chair

- (a) Action on items recommended for deferral (no items deferred)
- (b) Redevelopment Agency Monthly Financial Reports
- (c) Report on July/August Bi-Monthly Financial Report. (Budget)
- (d) Report on Comprehensive Annual Financial Report. (Finance)
  - \* **SEE ITEM 3.8(a) FOR COUNCIL ACTION TO BE TAKEN**
- (e) Report on Comprehensive Annual Financial Report. (Redevelopment Agency)
  - \* **TO BE HEARD ON REDEVELOPMENT AGENCY AGENDA OF 11/18/2008**
- (f) Report on Comprehensive Annual Debt Report. (Finance)
  - \* **SEE ITEM 3.8(b) FOR COUNCIL ACTION TO BE TAKEN**
- (g) Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months Ended June 30, 2008. (City Auditor)
- (h) Review of a Work Plan for Protocols and Policies Regarding Fire Department's Response to the County Jail. (Oliverio)
  - \* **SEE ITEM 3.9 FOR COUNCIL ACTION TO BE TAKEN**
- (i) Status Report on Heart Safe City Initiative. (Fire)
- (j) Status on 4<sup>th</sup> Quarter Reports on Performance Measurements for April-June 2008. (City Manager)
- (k) Report on Public Safety Recruitment and Training Efforts. (HR/Police/Fire)
- (l) Review of Relevant 2009 Legislative Guiding Principles. (Intergovernmental Relations)
- (m) Report on Infrastructure – Executive Overview of Priority Projects. (IT)
- (n) Oral Petitions
- (o) Adjournment



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Ordinance Amendments to Implement the New Business Tax Billing System.

**Recommendation:** Approve [an ordinance](#) amending Chapter 4.76 of Title 4 of the San José Municipal Code by:

- (a) Amending Sections 4.76.240 and 4.76.270 to clarify the due date for the initial payment of the business tax and to revise the due date for subsequent payments of the business tax to correspond with the City's new business tax billing system;
- (b) Amending Section 4.76.290 to clarify the penalty provisions for late payment;
- (c) Adding a new Section 4.76.295 to authorize the Director of Finance to waive penalties under certain circumstances; and
- (d) Providing that the current renewal tax payment due dates will apply until such time as the new business tax billing system is successfully implemented.

CEQA: Not a Project. (Finance)

#### 3.5 Bylaws of the Caltrain Centralized Equipment Maintenance and Operations Facility.

**Recommendation:** As recommended by the Rules and Open Government Committee, approve amending the bylaws of the Caltrain Centralized Equipment Maintenance and Operations Facility Monitoring Committee to modify the appointment requirements for representatives and to provide for alternate members. (Williams)

\* [Rules Committee referral 10/15/08 – Item G(1)]

#### 3.6 **Report of the Rules and Open Government Committee – September 24, 2008** **Mayor Reed, Chair**

- (a) City Council (City Clerk)
  - (1) Review September 30, 2008 Final Agenda
    - (a) Add New Items to final agenda
      - (1) Recommend adoption of the following resolutions in connection with the formation of a Convention Center Facilities District:
        - (a) A resolution of Intention to form a Convention Center Facilities District, to authorize the levy of special taxes pursuant to the City of San José Convention Center Facilities District financing procedure, to set a public hearing on Tuesday, November 4, 2008, at 1:30 p.m. regarding formation of the District and authorizing other related actions.
        - (b) A resolution to Incur Bonded Indebtedness of the proposed Convention center Facilities District pursuant to the City of San José Convention Center Facilities District financing procedure in an amount not to exceed \$750,000,000.

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Report of the Rules and Open Government Committee – September 24, 2008 (Cont'd.)

- (a) (1) (a) Add New Items to final agenda (Cont'd.)
    - (1) (c) A resolution of Official Intent to Reimburse Expenditure pursuant to United States Treasury Regulations Section 1.150-2 form tax-exempt bond proceeds.  
Council District: City-wide. CEQA: Resolution No. 72767
    - (b) Assign “Time Certain” to Agenda Items (if needed)
  - (2) Review October 7, 2008 Draft Agenda
    - (a) Add New Items to draft agenda
    - (b) Assign “Time Certain” to Agenda Items (if needed)
  - (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
  - (c) Legislative Update
    - (1) State
      - (a) Sacramento Update (verbal report). (City Manager’s Office)
      - (b) Accept Recommended City Positions on the November 4, 2008 California General Election Ballot – Propositions 1A, 3, 5, 6, 7, 10 and 12. (City Manager’s Office)
- HEARD BY COUNCIL 10/7/08**
- (2) Federal
  - (d) Meeting Schedule
    - (1) Approval of a Capital Budget Study Session on November 17, 2008, 9:00 a.m. – Noon, in Council Chambers. (Redevelopment Agency)
  - (e) The Public Record
  - (f) Appointments to Boards, Commissions and Committee
  - (g) Rules Committee Reviews, Recommendations and Approvals
    - (1) Recommendation that the City Council and Agency Board accept the disclosure of property interest by Joseph Horwedel, Director of Planning for the City of San José, and direct that the disclosure be entered into the public minutes of the Agency Board meeting. (Redevelopment Agency)
    - (2) Recommendation that the City Council and Agency Board accept the disclosure of property interest by Debra Figone, City Manager, and direct that the disclosure be entered into the public minutes of the Agency Board meeting. (Redevelopment Agency)
    - (3) Update on Board/Commission Member Absence Policy. (City Clerk)
    - (4) Update City of San José Employee Travel Policy to Include Web Based Technology. (Oliverio)
    - (5) Recommend Ratification of Election Process for Retiree Representatives to the Federated and Police and Fire Retirement Boards. (City Clerk)
- HEARD BY COUNCIL 9/30/08**
- (6) Workload Assessment related to suspension of certain provisions of the sign ordinance. (Cortese)
  - (7) Require Park Fees and/or Parkland for all Affordable Housing Project (Oliverio)

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Report of the Rules and Open Government Committee – September 24, 2008 (Cont'd.)

- (h) Review of additions to Council Committee Agendas
  - (1) Community and Economic Development Committee
  - (2) Neighborhood Services and Education Committee
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

\* (Deferred from 10/7/08 – Item 3.2 and 10/21/08 – Item 3.7)

#### 3.7 Report of the Rules and Open Government Committee – [October 1, 2008](#) Mayor Reed, Chair

- (a) City Council
  - (1) Review October 7, 2008 Final Agenda
  - (2) Review October 14, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
  - (1) State
    - (a) Sacramento Update (verbal report). (Manager)
  - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules committee Reviews, Recommendations and Approvals
  - (1) Workload Assessment related to suspension of certain provisions of the sign ordinance. (Cortese)  
(Deferred from 9/24/08)
  - (2) Approve amending bylaws of the Caltrain Centralized Equipment Maintenance Operations Facility. (Williams)
  - (3) Create a Memorandum of Understanding between City of San José and County of Santa Clara regarding policies, procedures and protocols for San José Fire Department response to the County Jail. (Oliverio)
  - (4) Approve expenditure for Faith Leaders Appreciation Breakfast. (Reed)
  - (5) Approval of \$5,000 grant from Council District 8 funds to the San José East Evergreen Rotary Club. (City Clerk)
- (h) Review of Additions to Council Committee Agendas
  - (1) Community and Economic Development (CED) Committee

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 Report of the Rules and Open Government Committee – October 1, 2008 (Cont'd.)

##### Mayor Reed, Chair

- (h) Review of Additions to Council Committee Agendas (Cont'd.)
  - (2) Neighborhood Services and Education
    - (a) Approve addition of an item to the November 13, 2008 agenda entitled, “Report on Parks, Recreation and Neighborhood Services Department pricing and revenue plan.” (Parks, Recreation and Neighborhood Services)
  - (3) Transportation and Environment Committee
  - (4) Public Safety, Finance and Strategic Support Committee
- (i) Review of Council Policy Updates per Sunshine Reforms
  - (1) Reed Reforms
  - (2) Sunshine Reform Task Force (SRTF)
  - (3) Significant Public Records Act Requests
  - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

\* (Deferred from 10/21/08 – Item 3.2)

#### 3.8 Comprehensive Annual Financial Report and Comprehensive Annual Debt Report.

##### Recommendation:

- (a) Verbal Presentation on the Comprehensive Annual Financial Report.
- (b) Verbal Presentation on the Comprehensive Annual Debt Report.

\* [Public Safety, Finance and Strategic Support Referral 10/16/08 – Items (d) & (f)]

#### 3.9 Review of Workplan for Protocols and Policies Regarding Fire Department's Response to the County Jail.

**Recommendation:** Direct staff to pursue discussions with the County of Santa Clara for the purpose of developing a Memorandum of Understanding (MOU) regarding policies, procedures, training, safety, and ongoing interagency communications related to San José Fire Department responses to the County Jail. CEQA: Exempt.

\* [Public Safety, Finance and Strategic Support Referral 10/16/08 – Item (h)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report.*

### 4.2 Business Cooperation Program.

**Recommendation:**

- (a) Accept the work plan for the Business Cooperation Program, which would maximize the allocation of use tax to the City.
- (b) Direct the City Attorney's Office to draft an ordinance establishing the eligibility for use tax allocation incentive under the Business Cooperation Program.

CEQA: Not a Project. (Economic Development)

### 4.3 Public Outreach on Under-Utilized City-Owned Property.

Attachment – A: Process for Surplus/Alternate Use of City Owned Properties

Attachment – B: Under Utilized City Owned Properties

Attachment – C: Sites

Supplemental – Memo from the CMO and ESD

Supplemental – Memo from the CMO and PBCE

**Recommendation:** Direct staff to conduct community outreach to solicit public input on alternative uses, leasing potential, and/or sale of 44 under-utilized City-owned properties included in the report, with particular emphasis on identifying revenue generating and cost reducing options. CEQA: Not a Project. (City Manager's Office/Public Works)

### 4.4 Historic Landmark Nomination and Mills Act Historical Property Contract for the Ames House.

**Recommendation:**

- (a) Public hearing and adopt a resolution designating the Ames House on a 0.16-acre site located at the east side of N. Fifteenth Street, approximately 90 feet south of E. Saint James Street (186 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-172)
- (b) Public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-004) between the City of San José and the owners of the Ames House (Hullene and Marcus Salomon). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: 13<sup>th</sup> Street. Council District 3. (Planning, Building and Code Enforcement)

\* **RECOMMEND CONTINUANCE TO 12/02/08 PER ADMINISTRATION**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair – *No Report.*

## 5. NEIGHBORHOOD SERVICES

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### 5.2 [Revised Council Policy #7-8: “Long-Term Use of City Parklands for Private Enterprise Purposes.”](#)

**Recommendation:** Adopt a resolution approving the revised Council Policy #7-8: “Long-Term Use of City Parklands for Private Enterprise Purposes,” which would go into effect only if the Measure M on the November 2008 ballot is approved by the voters. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

### 5.3 [Memorandum of Understanding for the shared planning, development and operation of recreational facilities.](#)

**Recommendation:** Approve the Memorandum of Understanding (MOU) between the City of San José and the East Side Union High School District for the shared planning, development and operation of recreational facilities. CEQA: Not a Project. Council Districts 2, 3, 4, 5, 7 and 8. SNI: Mayfair, KONA, West Evergreen. (Parks, Recreation and Neighborhood Services)

\* **RECOMMEND DEFERRAL TO 12/02/08 PER ADMINISTRATION**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 **Report of the Transportation and Environment Committee Councilmember Williams, Chair – *No Report*.**

### 6.2 [Artwork on the east façade of the Airport’s Consolidated Rental Car Garage.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Christian Moeller, to fabricate and install an artwork on the east façade of the Airport Consolidated Rental Car Garage at the Norman Y. Mineta San José International Airport in an amount not to exceed \$1,153,200. CEQA: Resolution Nos. 67380 and 71451, PP 08-226. (Economic Development)

\* **RECOMMEND DEFERRAL TO 11/18/08 PER ADMINISTRATION**

### 6.3 [Implementation of a Living Wage Ordinance applicable to the Norman Y. Mineta San José International Airport.](#)

[Supplemental – Memo from the Director of Aviation](#)

**Recommendation:** As recommended by the Transportation and Environment Committee:

- (a) Approve [an ordinance](#) amending Title 25 of the San José Municipal Code to add a new Chapter 25.11 to establish living wage, worker retention, labor peace and work environment reporting requirements applicable to the Norman Y. Mineta San José International Airport.

[Attachment – Memo from Councilmembers Williams and Pyle](#)

[Attachment – Memo from the City Attorney](#)

[Supplemental – Memo from Airport, Public Works and CMO](#)

[Attachment – Proposed Modifications to the Draft Ordinance](#)

*(Item continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.3 Implementation of a Living Wage Ordinance applicable to the Norman Y. Mineta San José International Airport. (Cont'd.)

#### **Recommendation:**

- (b) Consider modifying the monitoring and enforcement language in the draft ordinance to require that the City apply the same pro-active enforcement procedures currently used in enforcement of the Living Wage Policy.
- (c) Consider modifying the minimum compensation section of the draft ordinance to exempt those employees of commercial airlines from whom the aggregate of wages, corporate payments for health insurance, and corporate payments into a pension fund exceed the City's living wage level, after review of the City Attorney's determination of the feasibility of the proposed modification.
- (d) Implement the ordinance Airport-wide effective January 1, 2009.
- (e) Direct staff to return to the Transportation and Environment Committee in March 2009 with an implementation plan for the training program at the Airport.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-199.

[Transportation and Environment Committee referral – 10/6/08 Item (j)]

\*

**TO BE HEARD IN THE EVENING NO EARLIER THAN 7:30 P.M.**

### 6.4 [Amend Schedule of Fees and Charges at the Airport for Taxis and authorizing biennial setting of all taxi rates.](#)

[Supplemental – Memo from the Chief of Police and Director of Aviation](#)

#### **Recommendation:**

- (a) Adopt a resolution:
  - (1) Amending the Schedule of Fees and Charges at the Norman Y. Mineta San José International Airport contained in Resolution No. 74536 to establish a Taxicab Minimum Rate of Fare from the Airport of \$15, which will include the \$1.50 Airport Trip Fee and any Waiting Time Rate and which will cover the first three miles of travel.
  - (2) Readopting all other Rates, Fares and Tariffs in Resolution No. 74536 not revised above.
  - (3) Repealing Resolution No. 74536.
- (b) Approve an ordinance amending Chapter 6.64 of Title 6 of the San José Municipal Code to authorize the Director of Transportation (“Director”) to set and adjust taxicab rates, fares and surcharges based on industry indicators on a biennial basis, or sooner, as the Director deems appropriate.

CEQA: Not a Project. (Airport/Transportation)

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(Deferred from 10/21/08 – Item 6.2)

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Public hearing for a Commercial Solid Waste and Recyclables Collection Franchise.

**Recommendation:** Conduct a public hearing on the application of South Bay Hauling, Inc. dba South Bay Hauling and dba Eco Box Recycling for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with South Bay Hauling, Inc. dba South Bay Hauling and dba Eco Box Recycling for a term from December 18, 2008 through June 30, 2009. CEQA: Exempt, File No. PP08-228. (Environmental Services)

### 7.2 Public hearing for a Commercial Solid Waste and Recyclables Collection Franchise.

**Recommendation:** Conduct a public hearing on the application of Bernardini Enterprises Inc. dba JD Services for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with Bernardini Enterprises Inc. dba JD Services for a term from December 18, 2008 through June 30, 2009. CEQA: Exempt, File No. PP08-228. (Environmental Services)

### 7.3 Approve actions related to Commercial Solid Waste Franchise Fees.

#### Supplemental – Memo from the Director of Environmental Services

\* **Recommendation:**

- (a) Adopt a resolution amending Resolution No. 73256 to amend Commercial Solid Waste Collection Franchise Fees to set the commercial solid waste franchise fee for solid waste collected from public school districts and San José State University at zero if the school has a Waste Reduction and Recycling Cooperation Agreement with the City, to be effective November 1, 2008.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute new and amended Waste Reduction and Recycling Cooperation Agreements with public school districts and San José State University to address fees for solid waste collection services to the schools and to supersede Resolution Nos. 73878 and 73969.
- (c) Provide direction to Staff regarding the disposition of fees that may be remitted to the City pursuant to a proposed settlement with Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) which were collected before July 1, 2007 by BFI from public school districts.

CEQA: Not a Project. (Environmental Services)

\* **RENUMBERED FROM ITEM 2.6**

## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- \* *See Items 8.1 “Approval of an agreement with the San José Conservation Corps & Charter School for the creation of a Smart Start Center at 1560 Berger Drive” and 8.2 “Approval of actions related to the development of market rate housing on the North San Pedro Housing Project site” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.*

### CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

#### 9.1 Acquisition and Rehabilitation of a Multi-Service Community Service Center.

- \* **Recommendation:**
- (a) (1) Adopt a resolution by the City Council to authorize:
    - (a) Changes to the 2008-09 Consolidated Annual Action Plan to award and appropriate \$600,000 in CDBG funds to CTC for the acquisition of the Property.
    - (b) The assumption by CTC of a \$550,000 CDBG 15-year conditional loan previously awarded to Kelly Park Community Resource Center (Kelly Park) with St. Vincent de Paul acting as fiscal agent, for the 2003 rehabilitation of the Property.
    - (c) The assumption by CTC of a \$1,000,000 Healthy Neighborhood Venture Fund (HNVF) 15-year conditional loan previously awarded to Kelly Park with St. Vincent de Paul acting as fiscal agent, for the 2003 acquisition and rehabilitation of the Property.
    - (d) The Director of Housing to negotiate and execute a CDBG 15-year conditional loan agreement and promissory note secured by a deed of trust in the amount of \$600,000.
    - (e) The Director of Parks, Recreation and Neighborhood Services to negotiate and execute a one-time \$300,000 service agreement with CTC for the continued operations of day laborer services.
    - (f) The closing of the Consolidated Annual Action Plan Amendment public hearing process.
  - (2) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Community Development Block Grant (CDBG) Funds:
    - (a) Establish an appropriation to the Housing Department for the CTC Property Acquisition Project in the amount of \$600,000.
    - (b) Decrease Ending Fund Balance by \$600,000.

*(Item continued on the next page)*

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.1 Acquisition and Rehabilitation of a Multi-Service Community Service Center (Cont'd.)

#### **Recommendation:**

- (b) Adopt a resolution by the Redevelopment Agency Board:
- (1) Adjusting the Redevelopment Agency's FY 2008-09 Adopted Capital Budget to reallocate \$662,000 from the Japantown – Nishioka Site Acquisition project line to the new Story Road – Career Training Center project line in the Neighborhood Business Investment Program Redevelopment Area, and amending the FY 2008-2009 Agency appropriations resolution as detailed in Attachment A.
  - (2) Authorizing the Executive Director of the Redevelopment Agency (Agency), to negotiate and execute an Owner Participation Agreement with CTC to provide Agency assistance to rehabilitate the Property.
- (City Manager's Office/Redevelopment Agency)

- **Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.*

- **Continue RDA Board Meeting (immediately following Open Forum)**
- **Council will recess until 7:00 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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(To be heard by the City Council at 7:00 p.m.)

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### 11.1 Public Hearings on Consent Calendar.

#### **Recommendation:**

- (a) [Consideration of an ordinance rezoning the real property located](#) along Coleman Avenue between Newhall Street and Santa Clara/San José City limits (former FMC Site) from A(PD) Planned Development Zoning to A(PD) Planned Development Zoning to clarify development capacity, modify building setbacks, revise vehicular and pedestrian circulation and include other minor technical, clarifying or clerical revisions to the development standards of the existing Planned Development Zoning District on an approximately 92.5 gross acre site (City of San José, Arcadia Development Co./Coleman Airport Partners, Owners/Applicant. CEQA: EIR Resolution No. 71716 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
[PDC08-050- District 3](#)  
[Attachment – Final EIR](#)  
[Attachment - Map](#)  
[Supplemental – Memo from the Director of PBCE](#)

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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### 11.2 [Ordinance amending Section 20.70.100 of Chapter 20.70.](#)

- \* **Recommendation:** Consideration of [an ordinance](#) of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.70.100 of Chapter 20.70 to allow business support and business and administrative office uses as permitted uses with a special use permit in the DG Downtown Ground-Floor space overlay, modify parking requirements for live/work units, and allow animal grooming as a permitted use in downtown zoning districts; Amend Section 20.70.120 to modify the residential occupancy requirement for live/work units; and make other related clarifying changes and amendments. CEQA: Exempt, PP08-197. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). Citywide

### 11.3 [Ordinance rezoning the real property located at/on the east side of Campbell Avenue, approximately 400 feet southeasterly of El Camino Real.](#)

#### [Attachment – Staff Report and Attachments](#)

- \* **Recommendation:** Consideration of an ordinance rezoning the real property located at/on the east side of Campbell Avenue, approximately 400 feet southeasterly of El Camino Real (1270 Campbell Avenue) from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 259 multi-family residences over a podium garage on a 5.11 gross acre site (Sobrato Development Co, Owner; Sobrato Development Mr. Tim Steele, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to allow up to a maximum of 255 multi-family residences (7-0-0).  
[PDC07-081](#) – District 3

### 11.4 [Ordinance rezoning the real property located at the southwest corner of The Alameda and Sunol Street.](#)

#### [Attachment – Staff Report and Attachments](#)

#### [Attachment – Alameda Apartments General Development Plan](#)

- \* **Recommendation:** Consideration of an ordinance rezoning the real property located at the southwest corner of The Alameda and Sunol Street (850 The Alameda) from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 3,200 square feet of commercial uses and up to 9 single-family attached residential units in a mixed-use configuration on a 0.30 gross acre site (Ham Real Est Inv LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).  
[PDC07-020](#) – District 6

- Notice of City Engineer's Pending Decision on Final Maps

\* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9960	Southeast corner of Hostetter Road and Sierra Creek Way	4	Marvin Bamburg	6 Lots / 6 Units	Single Family Detached
10022	East corner of Berryessa Road and Jackson Avenue	4	Berryessa-Jackson Partners LLC	105 Lots / 371 Units	Multi-Family Attached and Retail

- Notice of City Engineer's Award of Construction Projects

- Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.*

- Adjournment

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.